

Internal Revenue Service

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Department of the Treasury

Washington, DC 20224

Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:CORP:03

PLR-142670-07

Date:

January 16, 2008

Parent =

Holdco =

Controlled =

Business 1 =

Business 2 =

Asset A =

X =

Y =

Sub 1 =

Sub 2 =

Sub 3 =

Sub 4 =

Sub 5 =

Sub 6 =

Sub 7 =

Sub 8 =

Sub 9 =

Sub 10 =

Sub 11 =

Sub 12 =

Sub 13 =

Sub 14 =

Sub 15 =

Sub 16 =

Sub 17 =

Sub 18 =

Dissolved Entity 1 =

Dissolved Entity 2 =

Dissolved Entity 3 =

Dissolved Entity 4 =

Dissolved Entity 5 =

Dissolved Entity 6 =

Dissolved Entity 7

Dissolved Entity 8 =

Dissolved Entity 9 =
Dissolved Entity 10 =
Dissolved Entity 11 =
Dissolved Entity 12 =
Dissolved Entity 13 =

Dear :

We respond to your request dated September 20, 2007, for rulings on the Federal income tax consequences of a proposed transaction. Additional information was submitted on November 2 and December 12, 2007 and January 4 and 14, 2008. The information submitted for consideration is summarized below.

The rulings contained in this letter are based on facts and representations submitted by the taxpayer and accompanied by a penalties of perjury statement executed by an appropriate party. This Office has not verified any of the materials submitted in support of the request for rulings. Verification of the information, representations, and other data may be required as part of the audit process. Moreover, no information provided by the taxpayer has been reviewed and no determination has been made regarding whether the proposed transaction: (i) satisfies the business purpose requirement of §1.355-2(b) of the Income Tax Regulations, (ii) is used principally as a device for the distribution of the earnings and profits of any distributing corporation or controlled corporation (see §355(a)(1)(B) of the Internal Revenue Code and §1.355-2(d)), and (iii) is part of a plan (or series of related transactions) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest in any distributing corporation or controlled corporation (see §355(e)(2)(A)(ii) and §1.355-7).

Distributing is the common parent of an affiliated group of corporations that files a consolidated Federal income tax return. Distributing and its affiliates are engaged in two separate lines of business, Business 1 and Business 2.

Distributing has two classes of common stock outstanding, Class A and Class B. The Class A common stock is publicly traded. The Class B common stock is not publicly traded. Together the Class A and Class B stock vote together as a single class with each share of Class A stock entitled to x votes and each share of Class B stock entitled to y votes.

Distributing wholly owns Holdco, Sub 1, Sub 2, Sub 3, Sub 4, Sub 5, Sub 6, Sub 7, Sub 8, Sub 10, Sub 11, Sub 12, Sub 13, Sub 17, Sub 18, Dissolved Entities 1-4 and various other entities. Dissolved Entity 4 wholly owns Dissolved Entity 5. Dissolved Entity 4 and Dissolved Entity 5 wholly own Dissolved Entity 6. Sub 8 wholly owns Sub 9. Sub 9 owns intellectual property, which is used by Sub 1, Sub 5 and Sub 17 in the conduct of their respective businesses. Holdco wholly owns Sub 14, Sub 15, Sub 16, Dissolved Entities 7-13, Asset A, and various other entities.

Distributing anticipates that prior to undertaking the proposed transaction Dissolved Entities 1-13 will be dissolved.

Financial information has been received that indicates that Business 1 (directly conducted by Sub 1 and Sub 14) and Business 2 (directly conducted by Sub 15) each have had gross receipts and operating expenses representative of the active conduct of a trade or business for each of the past five years.

For what are represented to be valid business purposes, the following transactions are proposed and partially completed:

- (i) Holdco formed Controlled.
- (ii) Holdco contributes Asset A and all of the outstanding stock of Sub 15, Sub 16, and any of Dissolved Entities 7-13 that have not been dissolved as of the effective date of this step (ii) (the "First Contributed Assets") to Controlled in exchange for Controlled Series A Common Stock and Controlled Series B Common Stock (the "First Contribution"). No liabilities of Holdco will be assumed by Controlled and Controlled will take none of the First Contributed Assets subject to any liability.
- (iii) Holdco distributes all of the outstanding stock of Controlled to Distributing (the "Spin").
- (iv) Sub 9 distributes the intellectual property used by Sub 1 and Sub 17 in the conduct of their respective businesses (the "Distributed Property") to Sub 8 and Sub 8 distributes the Distributed Property to Distributing in transactions intended to be taxable.
- (v) Distributing contributes all of its Business 2 assets, including all of outstanding stock of Sub 2, Sub 3, Sub 4, Sub 5, Sub 6, Sub 7, Sub 8, Sub 10, Sub 11, Sub 12, Sub 13, Sub 18 and any of Dissolved Entities 1-6 that have not been dissolved as of the effective date of this step (v) (the "Second Contributed Assets" and together with the First Contributed Assets, the "Contributed Assets") to Controlled in exchange for Controlled Series A Common Stock and Controlled Series B Common Stock (the

“Second Contribution”). No liabilities of Distributing will be assumed by Controlled and Controlled will take none of the Second Contributed Assets subject to any liability.

- (vi) Distributing makes a short-term loan to Controlled to provide Controlled with working capital.
- (vii) Distributing distributes pro rata (i) all of the outstanding Controlled Series A Common stock to the holders of Distributing Series A Common Stock and (ii) all of the outstanding Controlled Series B Common Stock to the holders of Distributing Series B Common Stock (the “Distribution”). Cash will be distributed in lieu of fractional shares to any shareholder that would otherwise receive a fractional share of Controlled stock.

The following representations have been made in connection with the First Contribution and the Spin:

- (a) No part of the consideration to be distributed by Holdco will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Holdco.
- (b) The five years of financial information submitted on behalf of the business conducted by Sub 14 (a member of the Holdco separate affiliated group (Holdco SAG)) is representative of the present business operations of Sub 14, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (c) The five years of financial information submitted on behalf of the business conducted by Sub 15 (a member of the Controlled separate affiliated group (Controlled SAG)) is representative of the present business operations of Sub 15, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (d) Following the Spin, the Holdco SAG and the Controlled SAG will each continue the active conduct of its business, independently and with its separate employees.
- (e) The Spin is being carried out to facilitate the Distribution. The Spin is motivated, in whole or substantial part, by this corporate business purpose.

- (f) The Spin is not being used principally as a device for the distribution of the earnings and profits of Holdco or Controlled or both.
- (g) No intercorporate debt will exist between Holdco and Controlled at the time of, or subsequent to, the Spin.
- (h) At the time of the Spin, no member of the Distributing consolidated group will have an excess loss account in the Controlled stock or in the stock of any Controlled subsidiary.
- (i) The allocation of basis under §358 that will occur in connection with the Spin will not result in the Controlled stock having a higher basis than it had immediately before the Spin.
- (j) Payments made in connection with all continuing transactions, if any, between Holdco and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length. It is intended that an agreement with respect to transitional services will be entered into. Payments with respect to this agreement will be for fair market value.
- (k) No two parties to the transaction are investment companies as defined in §368(a)(2)(F)(iii) and (iv).
- (l) The Spin is not part of a plan or series of related transactions (within the meaning of §1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of §355(d)(4) in Holdco or Controlled (including any predecessor or successor of any such corporation).

The following representations have been made in connection with the Second Contribution and the Distribution:

- (m) The indebtedness owed by Controlled to Distributing after the Distribution will not constitute stock or securities.
- (n) No part of the consideration to be distributed by Distributing will be received by a shareholder as a creditor, employee, or in any capacity other than that of a shareholder of Distributing.
- (o) The five years of financial information submitted on behalf of the businesses conducted by Sub 1 and Sub 14 (members of the Distributing separate affiliated group (Distributing SAG)) are representative of the present business operations of Sub 1 and Sub 14, and with regard to such

businesses, there have been no substantial operational changes since the date of the last financial statements submitted.

- (p) The five years of financial information submitted on behalf of the business conducted by Sub 15 (a member of the Controlled SAG) is representative of the present business operations of Sub 15, and with regard to such business, there have been no substantial operational changes since the date of the last financial statements submitted.
- (q) Following the Distribution, the Distributing SAG and the Controlled SAG will each continue the active conduct of its business, independently and with its separate employees.
- (r) The transaction is being carried out for the following corporate business purposes, being that each of Business 1 and Business 2, in a stand alone corporate structure, as compared with the existing combined structure, will benefit from (A) more focused management, with incentives closely tied to its performance and the interests of its shareholders, (B) a capital structure and related financing that are designed specifically for each business and are appropriate for its sector, and (C) independence in decision-making with respect to (i) staffing, compensation, and benefits, (ii) dividend policy, (iii) capital expenditures, and (iv) acquisitions, dispositions, commercial ventures and other transactions. The transaction is motivated, in whole or substantial part, by one or more of these corporate business purposes.
- (s) The Distribution is not being used principally as a device for the distribution of the earnings and profits of Distributing or Controlled or both.
- (t) Except as provided in step (vi), above, no intercorporate debt will exist between Distributing and Controlled at the time of, or subsequent to, the Distribution.
- (u) Immediately before the Distribution, items of income, gain, loss, deduction, and credit will be taken into account as required by the applicable intercompany transaction regulations. Distributing's excess loss account with respect to the Controlled stock, if any, will be included in income immediately before the Distribution.
- (v) At the time of the Distribution, no member of the Distributing Group will have an excess loss account in the Controlled stock or in stock of any Controlled subsidiary.

- (w) Payments made in connection with all continuing transactions, if any, between Distributing and Controlled will be for fair market value based on terms and conditions arrived at by the parties bargaining at arm's length. It is intended that an agreement with respect to transitional services will be entered into. Payments with respect to this agreement will be for fair market value.
- (x) No two parties to the transaction are investment companies as defined in §368(a)(2)(F)(iii) and (iv).
- (y) The Distribution is not part of a plan or series of related transactions (within the meaning of §1.355-7) pursuant to which one or more persons will acquire directly or indirectly stock representing a 50-percent or greater interest (within the meaning of §355(d)(4) in Distributing or Controlled (including any predecessor or successor of any such corporation).
- (z) The payment of cash in lieu of a fractional share of Controlled common stock is solely for the purpose of avoiding the expense and inconvenience to Controlled of issuing and maintaining fractional shares and will not represent separately bargained for consideration. The total cash that will be paid in the transaction to any shareholder in lieu of a fractional share of Controlled common stock will not exceed one percent of the total consideration that will be distributed in the transaction. Any fractional share interests of each Distributing shareholder will be aggregated, and it is intended that no Distributing shareholder will receive cash in an amount equal to or greater than the value of one full share of Controlled common stock.

Based solely on the information submitted and on the representations set forth above, we rule as follows regarding the First Contribution and the Spin:

- (1) The First Contribution followed by the Spin will constitute a reorganization within the meaning of §368(a)(1)(D). Holdco and Controlled will each be a "party to a reorganization" under §368(b).
- (2) No gain or loss will be recognized by Holdco upon the First Contribution (§361(a)).
- (3) No gain or loss will be recognized by Controlled upon the First Contribution (§1032(a)).
- (4) Controlled's basis in each of the First Contributed Assets received will equal the basis of such asset in the hands of Holdco immediately prior to First Contribution (§362(b)).

- (5) Controlled's holding period in each of the First Contributed Assets received will include the period during which such asset was held by Holdco (§1223(2)).
- (6) No gain or loss will be recognized by Holdco as a result of the Spin (§361(c)).
- (7) No gain or loss will be recognized by (and no amount will be includible in the income of) Distributing upon receipt of Controlled stock in the Spin §355(a)(1)).
- (8) The aggregate basis of the Holdco and Controlled stock in the hands of Distributing immediately after the Spin will be the same as the aggregate basis of the Holdco stock in the hands of Distributing immediately before the Spin, allocated between the Holdco and Controlled stock in proportion to the fair market value of each in accordance with §1.358-2(a)(2) (§358(a), (b) and (c)). If the Holdco stock held by Distributing immediately before the transaction has different bases (e.g., shares of stock were acquired at different times and at different prices), the bases of the Holdco blocks of shares will be allocated between the Holdco blocks and Controlled blocks (block by block allocation).
- (9) The holding period of the Controlled stock in the hands of Distributing will include the holding period of the Holdco shares with respect to which the shares are received, provided the Holdco shares are held as capital assets by Distributing on the date of the Spin (§1223(1)).
- (10) Earnings and profits will be allocated between Holdco and Controlled in accordance with §§312(h), 1.312-10(a), and 1.1502-33.

Based solely on the information submitted and representations made, we rule as follows regarding Second Contribution and the Distribution:

- (11) The Second Contribution followed by the Distribution will constitute a reorganization within the meaning of §368(a)(1)(D). Distributing and Controlled will each be "a party to the reorganization" under §368(b).
- (12) No gain or loss will be recognized by Distributing upon the Second Contribution (§361(a)).
- (13) No gain or loss will be recognized by Controlled upon the Second Contribution (§1032(a)).

- (14) Controlled's basis in each of the Second Contributed Assets received will equal the basis of such asset in the hands of Distributing immediately before the Second Contribution (§362(b)).
- (15) Controlled's holding period in each of the Second Contributed Assets received will include the period during which such asset was held by Distributing (§1223(2)).
- (16) Distributing will recognize no gain or loss upon the Distribution (§361(c)).
- (17) No gain or loss will be recognized by (and no amount will be includible in the income of) the Distributing shareholders upon receipt of the stock of Controlled in the Distribution (§355(a)(1)).
- (18) Any payments of cash in lieu of fractional share interests in Controlled will be treated for Federal tax purposes as if the fractional shares were issued in the distribution and then were redeemed by Controlled. The cash payments will be treated as having been received as a distribution in full payment in exchange for the stock redeemed as provided in §302(a). Provided the fractional share interest is a capital asset in the hands of the recipient shareholder, the gain or loss will constitute capital gain or loss subject to the provisions and limitations of Subchapter P of Chapter 1 of the Code. (Rev. Rul. 77-41, 1977-2 C.B. 574).
- (19) The aggregate basis of the Controlled stock and the Distributing stock in the hands of the Distributing shareholders immediately after the Distribution will be the same as the aggregate basis of the Distributing stock held by such shareholders immediately before the Distribution allocated in proportion to the fair market value of each in accordance with §1.358-2(a)(2) (§358(a), (b) and (c)). If a shareholder acquired stock in Distributing at different times and at different prices, the allocation of basis is made block by block.
- (20) Each Distributing shareholder's holding period in the stock of Controlled received in the Distribution will include the holding period of Distributing stock with respect to which the stock is received, provided that the shareholder holds such Distributing stock as a capital asset on the date of the Distribution (§1223(1)).
- (21) Distributing and Controlled will allocate their earnings and profits, if any, in accordance with §§312(h), 1.312-10(a), and 1.1502-33.

No opinion is expressed about the tax treatment of the proposed transaction under other provisions of the Code or regulations or the tax treatment of any conditions

existing at the time of, or effects resulting from, the proposed transaction that are not specifically covered by the above rulings. In particular, no opinion is expressed regarding: (i) whether the distribution satisfies the business purpose requirement of §1.355-2(b); (ii) whether the proposed transaction is used principally as a device for the distribution of the earnings and profits of any distributing corporation or controlled corporation or both (see §355(a)(1)(B) and §1.355-2(d)); and (iii) whether the proposed transaction is part of a plan (or series of related transactions) under §355(e)(2)(A)(ii).

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

A copy of this letter must be attached to any income tax return to which it is relevant. Alternatively, taxpayers filing their returns electronically may satisfy this requirement by attaching a statement to their return that provides the date and control number of the letter ruling.

Sincerely,

Ken Cohen
Senior Technician Reviewer, Branch 3
Office of Associate Chief Counsel (Corporate)